

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 3:</b> Hotline	<b>Effective Date:</b> July 1, 2018
	<b>Section 8:</b> Statutory Definition of Child Abuse and/or Neglect	<b>Version:</b> 6

<b>STATEMENTS OF PURPOSE</b>
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The Indiana Department of Child Services (DCS) will use the following criteria when evaluating a [Preliminary Report of Alleged Child Abuse or Neglect \(SF 114\)](#) to determine if the allegations meet the statutory definition for CA/N:

1. The alleged victim is under the age of 18<sup>1</sup>;
2. The alleged perpetrator's relationship to the alleged victim is that of parent, guardian or custodian (See Related Information); and

**Exception:** For allegations involving sexual abuse, the perpetrator can have **any** or **no** relationship to the child.

3. The allegations would cause a reasonable person to believe that CA/N has occurred (See "Allegations" below).

Allegations

Indiana Law includes the following Child in Need of Services (CHINS) definitions as the basis for child CA/N.

**Note:** There are additional CHINS statutes in Indiana Code that are not included in the definition of CA/N (e.g. CHINS 6: The child substantially endangers his/her own health or the health of another individual).

This list is intended to be used by an Intake Specialist/Supervisor as a parameter to determine whether a reporter's allegations would seem to indicate that CA/N has occurred:

CHINS 1: The child's physical or mental condition is seriously impaired or seriously endangered as a result of the parent, guardian, or custodian being unable, refusing, or neglecting to supply the child with necessary food, clothing, shelter, medical care, education, or supervision.

CHINS 2: The child's physical or mental health is seriously endangered due to an injury by the act or omission of the parent, guardian, or custodian.

**[NEW]**The Child is a victim of assisting suicide (I.C. 35-42-1-2.5); battery ([I.C. 35-42-2-1](#)); domestic battery ([I.C. 35-42-2-1.3](#)); aggravated battery (35-42-2-1.5); strangulation (I.C. 35-42-2-9); neglect of a dependent, child selling (I.C. 35-46-1-4); attempt or conspiracy to commit any of the listed offenses; or attempt or conspiracy to commit murder, causing suicide, voluntary

<sup>1</sup> If the alleged victim is over the age of 18 and is currently a ward, the reported information is forwarded to the DCS worker as an Information and Referral (I&R).

manslaughter, involuntary manslaughter, or reckless homicide. ([I.C. 31-34-1-2](#))

The child lives in the same household as an adult who committed and has been convicted of, or has been charged with committing an offense and is awaiting trial for, any of the following offenses against another child who lives in the household: assisting suicide (I.C. 35-42-1-2.5); battery ([I.C. 35-42-2-1](#)); domestic battery ([IC 35-42-2-1.3](#)); aggravated battery (35-42-2-1.5); strangulation (I.C. 35-42-2-9); neglect of a dependent, child selling (I.C. 35-42-1-4); attempt or conspiracy to commit any of the listed offenses; or attempt or conspiracy to commit murder, causing suicide, voluntary manslaughter, involuntary manslaughter, or reckless homicide. ([IC 31-34-1-2](#))

CHINS 3: The child is a victim of an offense listed in [IC 31-34-1-3](#) or is living in a household with an adult who has been charged with an offense listed in [IC 31-34-1-3](#) or [IC 35-42-3.5-1](#) and is awaiting trial or resulted in a conviction or judgement under [IC 31-34-11-2](#) or [IC 35-42-3.5-1](#).

CHINS 3.5: The child is a victim of a human trafficking offense as defined in [IC 31-9-2-133.1](#). A child is considered a victim of human trafficking regardless of whether the child consented to the conduct as defined.

CHINS 4: The child's parent, guardian, or custodian allows the child to participate in an obscene performance.

CHINS 5: The child's parent, guardian, or custodian allows the child to commit a prohibited sex offense (See [700 Sexual Offense Child Abuse and/or Neglect \(CA/N\) Matrix](#)).

CHINS 6: The child substantially endangers his/her own health or the health of another individual.

CHINS 7: The child's parent/guardian/custodian fails to participate in a school disciplinary proceeding.

CHINS 8: The child is a "missing child".

**Note:** This is a child who is the subject of a missing person's report and has been found in Indiana.

CHINS 9: The child is disabled and deprived of necessary nutrition or medical intervention.

**Note:** According to [IC 31-34-1-9](#), a child in need of services under CHINS 1, 2, 3, 4, 5, 6, 7, or 8 of this tool includes a child with a disability who:

- 1) Is deprived of nutrition that is necessary to sustain life; or
- 2) Is deprived of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition; if the nutrition or medical or surgical intervention is generally provided to similarly situated children with or without disabilities.

CHINS 10: The child is born with fetal alcohol syndrome, neonatal abstinence syndrome or with any amount of controlled substance, a legend drug<sup>1</sup> or a metabolite of a

controlled substance or legend drug in the child's body, including the child's blood, urine, umbilical cord tissue, meconium.

CHINS 11: The child has an injury, abnormal physical or psychological development, symptoms of neonatal intoxication or withdrawal or experiences risks or injuries from the mother's use of alcohol, controlled substance or legend drug during pregnancy.

#### Code References

1. [IC 12-7-2-28.8 Child care ministry](#)
2. [IC 12-7-2-149.1\(4\) Provider](#)
3. [IC 12-17.2-2-8\(6\) Licensure exemptions](#)
4. [IC 12-17.2-2-9 Migrant children's programs](#)
5. [IC 12-17.2-5 Chapter 5 Regulation of Child Care Homes](#)
6. [IC 12-17.2-6 Chapter 6 Regulation of Childcare Ministries](#)
7. [IC 31-9-2-14: Child abuse or neglect](#)
8. [IC 31-9-2-31: Custodian](#)
9. [IC 31-27 ARTICLE 27. CHILD SERVICES: REGULATION OF RESIDENTIAL CHILD CARE](#)
10. [IC 31-34-1: \(Sections 1-15\) Circumstances under which a child is a Child in Need of Services](#)
11. [IC 35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking](#)
12. [IC 35-42-4: \(Sections 1-4, 7, 9\) Rape; criminal deviant conduct; child molesting; child exploitation and pornography; child seduction; sexual misconduct with a minor](#)
13. [IC 35-45-4: \(Sections 1 and 2\) Public indecency and prostitution](#)
14. [IC 35-46-1-3: Incest](#)
15. [IC 31-33-8-1: Investigations by the department of child services; time of initiation; investigations of child care ministries](#)
16. [IC 31-9-2-133: Victim of child abuse or neglect](#)

#### PROCEDURE

The Hotline Intake Specialist will:

1. Complete the [Preliminary Report of Alleged Child Abuse or Neglect \(SF 114\)](#) in Management Gateway for Indiana's Kids (MaGIK);
2. Screen thoroughly each individual named in the report in MaGIK prior to sending to the Hotline Intake Supervisor;
3. Determine if the allegations meet the statutory definition of CA/N. See [Practice Guidance](#);
4. Complete the following if the statutory definition of CA/N has been met:
  - a. Recommend that the report be routed to the DCS local office for assessment,
  - b. Recommend how quickly the assessment must be initiated and determine if response time is to be expedited.

**Note:** When using MaGIK, review the timeframe assigned by the system and make any appropriate overrides.

5. Forward the CA/N intake report to the Hotline Intake Supervisor to be routed to the DCS local office. This may be done electronically.

**Note:** A Hotline Intake Specialist may not bypass supervisory review on any reports.

## PRACTICE GUIDANCE

### **Statutory Definition of CA/N**

The determination as to whether or not allegations meet the statutory definition of CA/N requires a careful, balanced assessment of both objective and subjective information with the paramount consideration being the safety of the alleged victim.

### **Emotional Abuse**

Emotional abuse of a child is commonly defined as a pattern of behavior by parents or caregivers that can seriously interfere with a child's cognitive, emotional, psychological or social development. Emotional abuse may be categorized as the following: Ignoring, Rejecting, Isolating, Exploiting or Corrupting, Verbally Assaulting, and Terrorizing (American Humane Association, 2012)<sup>2</sup>. Emotional Abuse may also be in the form of a parent or caregiver making frequent reports to the Hotline alleging CA/N when the same or similar allegations have been the basis of past assessments that were subsequently unsubstantiated.

Emotional abuse occurs when a parent, guardian, or custodian inflicts, creates, or puts a child at risk for emotional abuse. DCS defines emotional abuse as an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a Qualified Mental Health Professional (QMHP).

## FORMS AND TOOLS

1. [Sexual Offense Child Abuse and/or Neglect \(CA/N\) Matrix](#)
2. [Preliminary Report of Alleged Child Abuse or Neglect \(SF114\)](#)

## RELATED INFORMATION

### **Relationships.**

Parent: The child's biological or adoptive mother or father.

Guardian: A person appointed by a court to have the care and custody of a child and/or the child's estate.

Custodian: Any person with whom a child resides or any of the following:

- a. A license applicant or licensee of:
  - i. A foster home or residential child care facility that is required to be licensed or is licensed under [IC-31-27](#),

<sup>2</sup> American Humane Association (2012). Retrieved from <http://www.americanhumane.org/children/stop-child-abuse/fact-sheets/emotional-abuse.html>

- b. A child care center that is required to be licensed or is licensed under IC 12-17.2-4, or
  - c. A child care home that is required to be licensed or is licensed under IC 12-17.2-5.
2. A person who is responsible for care, supervision, or welfare of children while providing services as an owner, director, manager, supervisor, employee, or volunteer at:
    - a. A home, center, or facility described in one (1) above,
    - b. A child care ministry defined in [IC 12-7-2-28.8](#) that is exempt from licensing requirements and is registered or required to be registered under [IC 12-17.2-6](#),
    - c. A home, center, or facility of a child care provider, as defined in [IC 12-7-2-14.1\(4\)](#) or
    - d. A home, center, or facility that is the location of a program that provides child care, as defined in section 16.3 of this Indiana Code, to serve migrant children and that is exempt from licensing under [IC 12-17.2-2-8\(6\)](#), whether or not the program is certified as described in [IC 12-17.2-2-9](#).
  3. A school;
  4. A child caregiver;
  5. A member of the household of the child's noncustodial parent, or
  6. An individual who has or intends to have direct contact on a regular and continuing basis, with a child for whom the individual provides care and supervision.

#### **Child Caregiver**

[IC 31-9-2-16.4](#) defines a child caregiver as a person who provides, or is responsible for providing, care and supervision of a child (other than a child of whom the person is a parent, stepparent, grandparent, aunt, uncle, sibling, legal guardian, or custodian with whom the person resides) at a residential property that is not the child's place of residence, if the person:

1. Is not required to be licensed as the operator of:
  - a. A child care home under [IC 12-17.2-5](#), or
  - b. A foster family home under [IC 31-27-4](#), and
2. Provides care and supervision of a child while unattended by the child's:
  - a. Parent,
  - b. Guardian, or
  - c. Custodian with whom the child resides, and
3. Receives more than two thousand dollars (\$2,000) in annual compensation for providing care and supervision of a child or children.

All of these requirements must be met in order for DCS to assess a child caregiver.

#### **Child Care Home**

DCS assesses all child care homes whether licensed, unlicensed, or operating illegally without a license. See separate policy, [4.30 Institutional Child Protection Services \(ICPS\) Unit Assessments](#).

A child care home is defined in [IC 12-7-2-28.6](#) as a residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least 14 years of age and does not require child care) at any time receive child care from a provider:

1. While unattended by a parent, legal guardian, or custodian;

2. For regular compensation; and
3. For more than four (4) hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

**Archived Legislation 6/30/19 (16)**